



International Chamber of Commerce

The world business organization

The Resolution of International Tax Disputes through Arbitration

Fundamental, practical and procedural issues

In cooperation with the International Fiscal Association



Date

Wednesday 3 May 2006

Venue

International Chamber of Commerce

38, Cours Albert 1er
75008 Paris, France

Objective

Arbitration as a means for resolving international tax disputes is becoming a reality. The EU arbitration convention is in place for transfer pricing conflicts. The Organization for Economic Co-operation and Development (OECD) has recently proposed to amend the OECD model tax convention to provide for a mandatory resolution of unresolved mutual agreement procedures by arbitration. The ICC previously published a policy paper and model clause, and the International Fiscal Association (IFA) commissioned a study on "Income Tax Treaty Arbitration". Although the idea of using arbitration is thus gaining ground, many questions regarding the implementation of this dispute settlement technique are still open.

In this conference, internationally recognized experts in international taxation and international arbitration will present their views regarding some of the procedural and practical aspects of international fiscal arbitration. Participants will have the opportunity to discuss solutions based on their own experience in international dispute resolution.

Discussions will specifically focus on

- Recent OECD developments regarding dispute resolution through arbitration
- EU arbitration convention and the EU Code of Conduct
- ICC model clause and arbitration clauses in bilateral tax treaties
- Design of arbitration clauses for taxation conflicts and the scope of fiscal arbitration
- Specific procedural issues such as place, time frame, costs, etc.
- Composition of the arbitral tribunal
- Rights and obligations of taxpayers, tax authorities, advisors and arbitrators
- Enforcement of the arbitral award

Participants

The conference will be of particular interest to those who might be involved in the arbitration of international tax disputes, including advisors, tax directors of international groups, arbitrators and party representatives, as well as to those in charge of designing and applying arbitration clauses, in particular tax administration officials.

Supporters

- **BIAC**
- **Deutsche Institution für Schiedsgerichtsbarkeit e.V. (German Institution of Arbitration)**
- **European Company Lawyers Association (ECLA) / Association Européenne des Juristes d'Entreprise (AEJE)**
- **International Bar Association (IBA)**
- **OECD**
- **Swiss Arbitration Association (ASA)**

International Chamber of Commerce

38, Cours Albert 1er, 75008 Paris, France

Telephone +33 1 49 53 28 70 Faxes +33 1 49 53 29 42 / 30 30

Website www.iccwbo.org/events E-mail events@iccwbo.org

Programme

Wednesday 3 May 2006

As of 8.00

Registration

09.00-09.15

Welcome

Pierre Tercier, Professor of Law, University of Fribourg, Switzerland; Chairman, ICC International Court of Arbitration

MORNING SESSION

The morning session will provide background information about recent developments, current practice and changes envisaged in the field of resolving international tax disputes.

The session will be divided into four presentations, each followed by a Q & A period.

Chairman

Peter Baumgartner, Director, Federation of Swiss Industrial Holding Companies, Berne; Chairman, ICC Commission on Taxation

09.15-09.45

Why international fiscal arbitration: the past and current state

- Dispute resolution bilateral tax treaties
- Arbitration as a complement to existing procedures
- Clauses in current conventions
- Elements of the ICC model approach
- Basic questions regarding the design of an arbitration clause for tax disputes
- Expectations of the international business community

Robert Couzin, Partner, Couzin Taylor LLP/Ernst & Young LLP, Toronto; Incoming Chairman, ICC Commission on Taxation; Member, Permanent Scientific Committee, IFA

09.45-10.15

Dispute resolution under the OECD model tax convention: latest developments

- OECD efforts to improve the dispute settlement procedures under tax treaties
- Proposal for a supplementary dispute resolution mechanism and other improvements to the Mutual Agreement Procedure (MAP) process
- Results of mid-March consultation with business in Tokyo
- Next steps

Mary Bennett, Head of Tax Treaty, Transfer Pricing & Financial Transactions Division, Centre for Tax Policy and Administration, OECD

10.15-10.45

Arbitration on transfer pricing disputes in the EU

- EU Arbitration Convention for the resolution of transfer pricing disputes
- Code of conduct worked out by the EU Joint Transfer Pricing Forum
- Practical experiences regarding the application of the convention in an international transfer pricing case
- Suggestions for the future

Guy Gest, Professor, University Panthéon-Assas (Paris II), France

10.45-11.15

Contact break

11.15-11.45

International Arbitration: lessons to be learned from state-state, investor-state and commercial arbitration

- Taxation conflicts as disputes between two or more taxing jurisdictions
- Special position of the tax payer
- Similar procedural questions in other forms of arbitration
- Important elements for a successful arbitration procedure

Pierre Tercier, Professor of Law, University of Fribourg; Chairman, ICC International Court of Arbitration

Programme *(continued)*

11.45-12.30

Panel discussion: Will arbitration in international tax matters become reality?

The panel will discuss the chances that arbitration will actually be used by states as a supplementary means for the resolution of international taxation disputes. It will analyse whether the solutions suggested by the OECD are acceptable for tax authorities and taxpayers and which procedural aspects must be solved when states agree to accept mandatory arbitration in their bilateral tax treaties.

Moderator

David R. Tillinghast, Partner, Baker & McKenzie, United States; former Chairman, Permanent Scientific Committee, IFA

Panellists

Members of the morning and afternoon sessions

12.30-14.30

Lunch

AFTERNOON SESSION

The afternoon session will focus on procedural and practical issues by establishing an arbitration panel which will deal with a real tax dispute of the past. Participants will be given the opportunity to interact during Q & A period.

14.30-15.30

Practical aspects of tax arbitration: a dispute on the characterization of royalty payments under a tax treaty

- Bringing the claim
- Selection of arbitrators
- Selection of chairperson
- Organization of arbitration
- Written pleadings
- Hearings, evidence and experts
- Deliberation and award

Moderator

William W. Park, Professor of Law, Boston University, United States

Panellists

Axel H. Baum, Partner, Hughes Hubbard & Reed LLP, France

Marcus Desax, Partner, Pestalozzi Lachenal Party, Switzerland; President, IFA

Pierre A. Karrer, Lawyer, Cabinet Dr Pierre Karrer, Switzerland

Philip R. Kimbrough, Lawyer, Founding Partner, Kimbrough & Associés, France

David W. Rivkin, Attorney, Partner, Debevoise & Plimpton, United States

Pierre Tercier, Professor of Law, University of Fribourg; Chairman, ICC International Court of Arbitration

15.30-16.00

Contact break

16.00-17.00

Continuation of panel discussion and Q & A period

17.00-17.15

Closing remarks and outlook for the future

Jean-Pierre Le Gall, Professor Emeritus, University Panthéon-Assas (Paris II), France; Of Counsel, Sullivan & Cromwell; Chairman, Permanent Scientific Committee, IFA

Logistical Note

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Event **The Resolution of International Tax Disputes through Arbitration**
Fundamental, practical and procedural issues

Working language

English

Contribution to costs

- 680 Euros for ICC/Supporter members
- 780 Euros for non-members

580 Euros “early-bird” special
Registration before Friday 7 April 2006

The contribution to costs covers all conference activities, including documentation, a lunch and contact breaks. All fees are exclusive of travel and accommodation.

Registration

- *Easier and faster:* **Registration and payment online at www.iccwbo.org/events**

or

- complete and return the registration form indicating method of payment, and:

E-mail: **events@iccwbo.org**

Post: **ICC Events**

Fax to: +33 1 49 53 30 30 / 29 42

International Chamber of Commerce

Phone: +33 1 49 53 28 70

38, Cours Albert 1er, 75008 Paris, France

Registration will be confirmed upon receipt of the registration form and contribution to costs.

Participants are responsible for making their own travel and hotel arrangements.

A list of hotels in Paris, with which ICC has negotiated preferential room rates, will be sent upon receipt of the registration form, together and the contribution to costs.

Cancellations

40% of the registration fee will be refunded for any cancellation received in writing by ICC Events prior to **Friday 7 April 2006**. No refund can be made for cancellations received after this date. You are welcome to send a substitute at any time. Please inform us if you plan to send a substitute. Updated registration materials will be required.

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Registration form

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Participant information

Title (Mr/Dr/Mrs/etc.)
Family name First/given name
Position
Company
Address
City/state Zip/postal code
Country E-mail
Phone (.....) Fax (.....)

(Please check the appropriate box)

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Should you need an invoice, please check

Method of payment

By credit card: American Express Euro/MasterCard Visa

Card number Expiry date

Name of cardholder

By cheque:

payable to "International Chamber of Commerce" **bearing the reference "ICC S0606" and indicating clearly the participant's name.**

Registration will be confirmed upon receipt of this completed registration form and contribution to costs.

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Date

Signature

The information you provide on this form will be used to compile the participants list for this event. By providing this information, you consent to ICC storing it in its data base for the sole use of the ICC International Secretariat. You may have access to this information and request to have it deleted or corrected at any time by contacting ICC Events.

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